



**COMMITTEE ON ELECTIONS, RULES, ORDINANCES, ORDERS
AND CLAIMS
SEPTEMBER 14, 2009
MINUTES**

*Councilor Michael Bardsley, Chair
Councilor Robert Reckman
Councilor David Narkewicz*

Chairman Michael Bardsley called the meeting to order at 6:08 p.m.

CLAIMS:

- **Davis – Personal Injury Claim of April 18, 2009**

City Solicitor Elaine Reall recommends denial of this claim. Ms. Kathleen Davis again attended the meeting of this Committee to argue her claim. The Committee determined that the City was not negligent. The original decision of June 8, 2009 to deny without prejudice until December 31, 2009 was upheld by the Committee.

- **Speyer – Pothole Claim of May 7, 2009**

City Solicitor Elaine Reall recommends approval and payment of this claim of \$238.70. The Department of Public Works had been properly notified of this situation prior to Ms. Speyer's claim.

**Councilor Reckman moved approval and payment of this claim of \$238.70;
Councilor Narkewicz seconded. The vote passed unanimously (3-0).**

ORDINANCES:

- Amend 312-67 A keep right sign be installed in the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)
- Amend 312-112 A One-Way Street sign be installed at the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)
- Amend 312-113 A yield sign be installed at the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)

The above three Ordinances are continued.

- Amend Section 350-10.7 Heavy Public Use and Section 350-5.2 Table of Use Regulations (Referred by City Council July 30, 2009 to Committee on Economic Development, Housing and Land Use, Planning Board, and Committee on Elections, Rules, Ordinances, Orders and Claims)

- Amend Section 350-10.7 Heavy Public Use and Section 5.2 Table of Use Regulations. Amend Section 272 Solid Waste Management (Referred by City Council August 20, 2009 to Committee on Economic Development, Housing and Land Use, and to Committee on Elections, Rules, Ordinances, Orders and Claims) (Sponsored by the Planning Board)

The above two Ordinances were discussed by the Committee. Carolyn Misch, Senior Land Use Planner/Permits Manager, explained that the site plan and technical aspects would be done in the Planning Department. Councilor Narkewicz explained that the current system goes to Planning for site plan, then City Council for approval.

Councilor Reckman stated that the Board of Public Works would have to come to City Council for funding before anything can happen. Ms. Misch stated that the alternative would be to keep the site plan application with the Planning Board, with the City Council level out of Chapter 40A which confines the discussion in permit process.

Councilor Bardsley stated that historically the procedure was that City Council acted on permits, and that did not affect the City Council's ability to speak on the subject. City Solicitor Elaine Reall explained that things have changed and become more complex and litigious.

Ms. Misch stated that the Planning Board must look at the impact on city resources of any permit application. Heavy public use impacts many areas of city finances.

Councilor Narkewicz stated that he would prefer to take out section C and leave technical to the Planning Board. Ms. Misch stated that the special permit for heavy public use is unique to Northampton.

Dr. Joan Bessette, Mary Odgers, Mr. Sullivan, Councilor Marianne LaBarge, Kathleen Silva, and George J. Russell gave public comments regarding the two Ordinances.

After a lengthy discussion, several motions were made and discussed, but not moved.

Councilor Narkewicz moved to recommend both Ordinances to full City Council with amendment changes to form and language; Councilor Reckman seconded. Councilor Narkewicz will draft up the changes. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No).

Councilor Reckman moved to present the Ordinances as Late Files at the September 17, 2009 City Council meeting; Councilor Narkewicz seconded. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No).

- Ordinance - Amend §350-8.8 Standards for Private, Individual Driveways (Referred by City Council July 9, 2009 to Committee on Elections, Rules, Ordinances, Orders and Claims, to Planning Board, and to Committee on Economic Development, Housing, and Land Use)

Councilor Reckman moved to recommend to the full City Council; Councilor Narkewicz seconded.

Carolyn Misch explained that the Fire Department would prefer 12% to conform with special permit. Councilor Bardsley asked if the Planning Board could override the Fire Department? Ms. Misch explained that the correct language has been addressed.

Councilor Bardsley moved to recommend to City Council, as amended; Councilor Reckman seconded. The vote passed unanimously (3-0).

- Ordinance - Amend §350-3.4 & Attachment 1:1 Rezone Residential Areas of Watershed Protection (WP) to Special Conservancy and Drop WP in Areas Outside of Floodplain (Referred by City Council July 9, 2009 to Committee on Elections, Rules, Ordinances, Orders and Claims, to Planning Board, and to Economic Development, Housing and Land Use)

See attached memo from Carolyn Misch and Wayne Feiden. No action was taken, and this Ordinance will be continued to the October 5, 2009 meeting.

- Amend Section 22-1B Overview of City Council and City Council committees; Establishment of Committees (Refer to Committee on Elections, Rules, Ordinances, Orders and Claims)

Councilor Narkewicz stated that this is in line with Best Practices and will look at the City Charter at least every ten years. This also is in line with census and redistricting.

Councilor Narkewicz moved to recommend to City Council; Councilor Reckman seconded. The vote passed unanimously (3-0).

ORDERS:

- Question to Be Placed on November 3, 2009 Election Ballot- Sponsored by Councilors Bardsley and LaBarge (Referred by City Council July 9, 2009 to Committee on Elections, Rules, Ordinances, Orders and Claims and Committee on Economic Development, Housing and Land Use and Joint Planning Committee) - CONTINUED FROM AUGUST 31, 2009 MEETING.

Councilor Narkewicz moved to forward to full City Council with no recommendation; Councilor Reckman seconded. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No).

- Place Non-Binding Question and Summary on Ballot for November 3, 2009 Election – Sponsored by Councilors Dostal, Reckman and Spector (Referred by City Council September 3, 2009 to Joint Committee City Council and Board of Public Works, Committee on Economic Development, Housing and Land Use and Committee on Elections, Rules, Ordinances, Orders and Claims)

Councilor Reckman presented several changes and formats for the wording of the Order. City Solicitor Elaine Reall noted several scribes' errors.

Councilor Narkewicz moved to forward to full city Council with no recommendation, except scrivener's corrections recommended by the City Solicitor; Councilor Reckman seconded. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No).

Councilor Reckman will present changes and formats at the September 17, 2009 City Council meeting.

Councilor Narkewicz moved to submit both Orders as Late Files to City Council meeting of September 17, 2009; Councilor Reckman seconded. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No).

APPROVAL OF MINUTES – August 31, 2009

Councilor Reckman moved approval of the minutes; Councilor Narkewicz seconded. The vote passed unanimously (3-0).

NEW BUSINESS – City Solicitor Elaine Reall gave information to the Committee regarding research of Executive Session procedures used in several cities and towns.

At 9:50 p.m., Councilor Reckman moved to adjourn and was seconded by Councilor Narkewicz. The vote to adjourn passed unanimously (3-0).

Next meeting is October 5, 2009 at 6:00 PM.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*



PLANNING AND DEVELOPMENT • CITY OF NORTHAMPTON

planning • conservation • zoning • northampton GIS • historic • community preservation • central business architecture

Carolyn Misch, AICP, Senior Land Use Planner • CMisch@NorthamptonMA.gov • 413-587-1287

TO: Economic Development Housing & Land Use Committee
FROM: Carolyn Misch and Wayne Feiden
RE: Further detail on SC & WP and associated local, state and federal regulations
DATE: August 31, 2009

Committee members requested more information about differences between the existing WP and SC zoning districts as well as clarity on the goals for the proposed ordinance amendments. Also presented, as requested, are two examples of how the change would affect a parcel in the WP overlay with existing structures and how it would affect a tract of open, undeveloped land with frontage.

The primary goal with the ordinance change is to ensure that the city treats all residential uses within the FEMA mapped 100 year floodplain consistently throughout the city. Implicit within that is creating consistency with the newly adopted Sustainability Plan wherein goals indicate that development should be directed to parcels that do not have environmental constraints such as wetlands or floodplains. Currently, it could be inferred that the zoning ordinance has two standards for floodplains. The SC clearly indicates that new residential uses on new lots are not allowed. Though the purpose statements are similar between SC and WP (see Table 1 below) the WP places constraints and requires Planning Board approval, but it does not clearly prohibit the construction of new homes within the FEMA mapped 100 year flood elevations. See Table 2 for an outline of the regulations in each district.

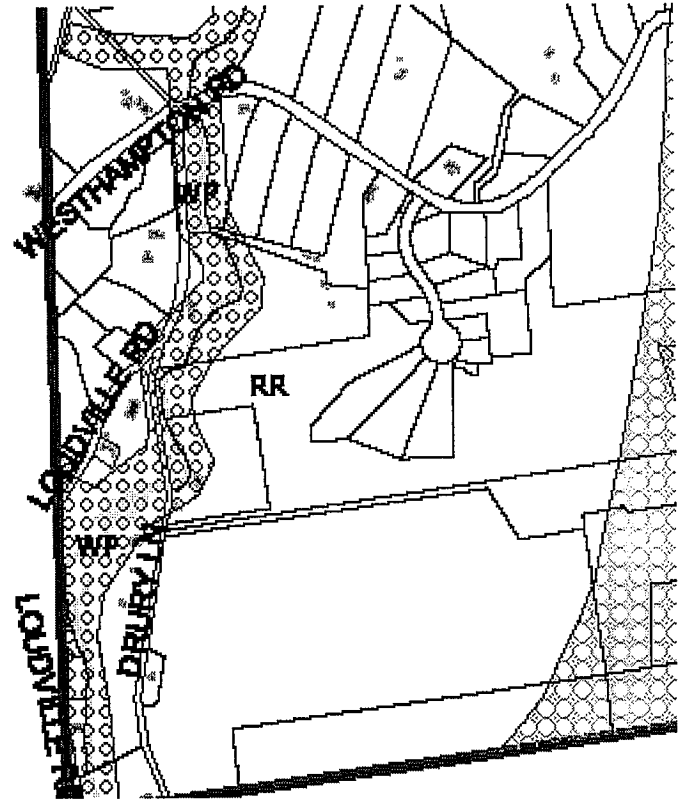
TABLE 1

As currently written- purposes of the <u>Special Conservancy District</u> :	As currently written-- purposes of the <u>Watershed Protection</u> :
To protect the public health and safety, persons and property against the hazards of seasonal and periodic flooding;	To preserve and protect the streams and other watercourses in the City of Northampton and their adjoining lands;
To protect the entire community from individual choices of land use and development which require subsequent public expenditures for public works and disaster relief;	To protect the health and safety of persons and property against the hazards of flooding and contamination, as specified in § 350-13.1;
To provide that lands in the City of Northampton subject to seasonal or periodic flooding as described hereinafter shall not be used for residential or other purposes in such a manner as to endanger the health or safety of the occupants thereof;	To preserve and maintain the groundwater table for water supply purposes, and protection of adequate base flows of streams and rivers;
To assure the continuation of the natural flow pattern of the watercourses within the City of Northampton in order to provide safe and adequate floodwater storage and conveyance capacity, to protect persons and property against the hazards of flood inundation, including damage from erosion and increased flood heights and velocities;	To protect the community against the detrimental use and development of lands adjoining such watercourses;
To protect, preserve and maintain the water table and water recharge areas with the City so as to preserve present and potential water supplies for the public health and safety of the residents of the City of Northampton;	To conserve the watershed areas of the City of Northampton for the health, safety, and welfare of the public
To provide for the continued functioning of the river floodplain/wetlands as a natural system. The object is to avoid activities in the floodplain/wetlands which would interfere with natural food chains that support a myriad of living things recognizing that they serve mankind and all other life in assimilating waste, producing food, conserving water, and maintaining stability which has been called the balance of nature. Proper use of the floodplain/wetlands is considered to be such as would secure these benefits to all its users	

Table 2

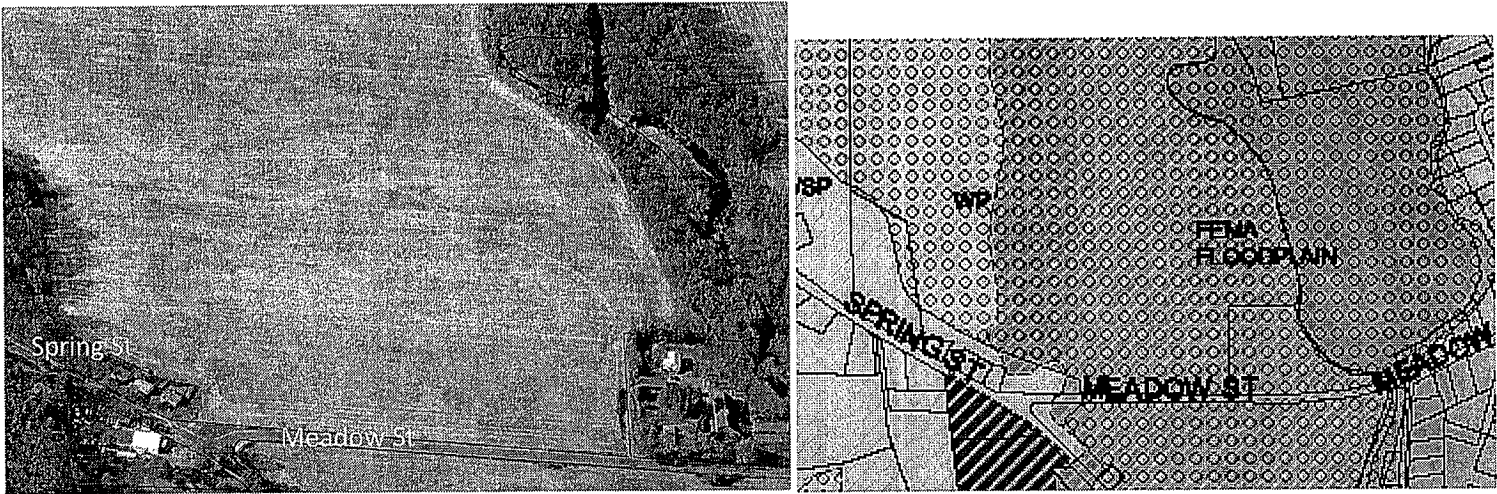
Zoning District	Local Zoning Restrictions	Mass Rivers Act (Conservation Comm)	Mass Wetlands Protection Act & Local Wetlands Ord. (Conservation Comm)	FEMA Floodplain (Boundary delineation only)	State Building Code (regulates)
Special Conservancy	<ul style="list-style-type: none"> New Lots = 40 acres. No special permit to expand existing uses Dimensions equal to URB 	<ul style="list-style-type: none"> New lots within 200' of riverfront need review. Restrictions on amount of disturbance Some expansions of existing uses 	<ul style="list-style-type: none"> Disturbance within 100' of wetland requires permit. New disturbance w/in 50' may be prohibited. Compensatory Flood Storage for each cubic foot of new construction. 	<ul style="list-style-type: none"> No regulations, just provides baseline mapping for area where state and local codes apply. Fed Building Code. 	<ul style="list-style-type: none"> Substantial Improvements (50%) require upgrades (utilities out of flood elevation)
<i>Pre-Existing Non-Conform uses.</i>	<ul style="list-style-type: none"> Expansion by Zoning Board Finding 				
WP overlay on Residential	<ul style="list-style-type: none"> Special permit for any improvement over 15% of value. SP not guaranteed for new use. Plan compliance reqd. Plan does not support. 	<ul style="list-style-type: none"> New lots within 200' of riverfront need review. Restrictions on amount of disturbance Some expansions of existing uses 	<ul style="list-style-type: none"> Disturbance within 100' of wetland requires permit. New disturbance w/in 50' may be prohibited. Compensatory Flood Storage for each cubic foot of new construction. 	<ul style="list-style-type: none"> No regulations, just provides baseline mapping for area where state and local codes apply. Fed Building Code. 	<ul style="list-style-type: none"> Substantial Improvements require upgrades (utilities out of flood elevation)
<i>Pre-Existing Non-Conform uses.</i>	<ul style="list-style-type: none"> Expansion by Zoning Board Finding & SP from Plng Board for substantial improvement 				

Loudville Rd example: Currently Rural Residential with a WP overlay for the Manhan River. Existing houses are within 40 of the river (sandwiched between the river and the road).



Due to the land constraints, structures are:	Existing zoning any additions/modifications require:	Proposed Zoning (reduce setbacks, lot size & open space to URB standards and only require:
<ul style="list-style-type: none"> • non-conforming for lot size; 	<ol style="list-style-type: none"> 1. Zoning Board of Appeals permit to address non-conformities; AND 	<ol style="list-style-type: none"> 1. Conservation Commission review to address Rivers Act and floodplain. Compensatory flood storage may not be possible.
<ul style="list-style-type: none"> • non-conforming for open space (some cases) 	<ol style="list-style-type: none"> 2. Planning Board permit to address substantial improvement; AND 	<ol style="list-style-type: none"> 2. BUILDING PERMIT upgrades to comply with state building codes.
<ul style="list-style-type: none"> • non-conforming for front , rear & in some cases side setback. 	<ol style="list-style-type: none"> 3. Conservation Commission review to address Rivers Act and floodplain issues. Compensatory flood storage may not be possible; AND 	
	<ol style="list-style-type: none"> 4. BUILDING PERMIT upgrades to comply with state building codes. 	

Meadow Street Example: Vacant land in URA with WSP, WP overlay and FEMA Floodplain (darkest layer)



Land Constraints	Existing zoning:	Proposed Zoning (for portions of property in FEMA 100 year floodplain)
Parcel = 240' above MSL Northern reaches = 245' above MSL	1. 80,000 sf minimum lot size; AND	1. 40 Acre minimum lot size; AND
	2. Entire parcel within WSP and WP Requires Planning Board special permit for any new use. Planning Board discretion on uses; AND	2. No new residential uses
100 year FEMA Floodplain = 246' above MSL	3. Conservation Commission review to address floodplain issues and possibly Rivers Act; AND	3. Conservation Commission review to address floodplain and Rivers Act; AND
	4. Foot-Foot compensatory flood storage may be unlikely to find on site as required.	4. Foot-Foot compensatory flood storage may be unlikely to find on site as required.
	5. BUILDING PERMIT to comply with state building codes.	5. BUILDING PERMIT upgrades to comply with state building codes.



PLANNING AND DEVELOPMENT • CITY OF NORTHAMPTON

planning • conservation • zoning • housing partnership • redevelopment • northampton GIS
economic development • community development • historic • community preservation • central business architecture

Wayne Feiden, FAICP, Director of Planning and Development • Wfeiden@NorthamptonMA.gov • 413-587-1265

TO: Planning Board and Ordinance Committee
FROM: Wayne Feiden, FAICP, Director of Planning and Development
DATE: July 15, 2009
RE: Allowable Driveway Grades and Drainage

This change will set a limit on driveway grade to increase likelihood of emergency vehicle response and minimize impacts from driveway drainage.

	<u>Date</u>	<u>Action</u>
Sponsored by Planning Board	6/25/09	Sent to City Council
Referred from City Council	7/9/09	Refer to Ordinance & Planning Board
Legal notice and posting		
Ordinance/Planning Board Public Hearing		
EDHLU recommendation	7/13/09	Recommend in favor by unanimous vote, as amended
Planning Board recommendation	9/10/09	Recommend in favor by unanimous vote, as amended
Ordinance Committee recommendation	9/14/09	
Deadline for final City Council action	12/3/09	

Nine
Planning Board

§350-8.8

Standards for private, individual driveways

§350-8.8

Chapter 350-8.8 Parking standards and loading space standards:

Add new subsection "P" and "Q" as follows:

P. No portion of individual, private driveways shall not exceed a slope of 10% with switchbacks and turns reasonable for emergency vehicle access. However, in the case of driveways that are between 10% and up to a maximum of 12% and that are on south-facing slopes with and have no curves, these driveways may be approved by Office of Planning and Development in consultation with the Fire Department when it is determined that no public safety issues will be created with such driveways. However, the Planning Board may allow steeper grades by Special Permit.

Q. For all driveways with grades greater than 8% or longer than 500' and which do not result in total site disturbance of 1 acre or more triggering a Department of Public Works stormwater permit, a drainage plan shall be submitted to Office of Planning and Development for review and approval.

{No other changes to section.}

CITY OF NORTHAMPTON

REVISED

MASSACHUSETTS

In City Council, September 3, 2009

Upon the recommendation of City Councilors James M. Dostal, Robert C. Reckman and
..... Paul D. Spector

Ordered, that

A Non-Binding Advisory Question

"Do you favor expanding the Glendale Road Landfill?"

NOT → The Northampton landfill on Glendale Road will reach capacity in 2011 and be closed. ~~After a rigorous application process, The Board of Public Works received a waiver from the Commonwealth to expand the landfill.~~

of Massachusetts
A "Yes" vote to *Expand the landfill* will:

- Contribute approximately \$750,000 per year to the general fund and generate additional income to support recycling options and programs;
- Provide the lowest disposal cost for households and businesses;
- Receive waste from our schools, the housing authority, and other City operations at no cost to taxpayers;
- Allow the City to take responsibility for its own waste stream; or

A "No" vote to *Close the landfill* will cause:

- A decrease in traffic, odor and dust for landfill neighbors;
- Although multiple state and independent studies have shown there is no new environmental risk, allay the concerns of some citizens about such possible risks;
- A reduction in the financial risk associated with a large new public works project; and *the*
- *(Although multiple state and independent studies have shown there is no health risk), ending of*
the concern of some citizens about possible health risks associated with living near an active landfill.

YES → Through this ballot question the City Council seeks input from the electorate on whether to pursue expansion of the City's landfill. The vote on this question will be advisory only and will not require the City Council to take any particular course of action.

_____ Yes _____ No

Recommended additions from EDLUH
Recommended deletions from EDLUH

Whereas:

The Northampton landfill on Glendale Rd. will reach capacity around 2011 and be closed. After a rigorous application process, The Board of Public Works received a waiver from the Commonwealth to expand the landfill.

And Whereas, the City has two distinct options:

Expand the landfill which will:

- Allow the City to take responsibility for its own waste stream.
- Provide the lowest disposal cost for households and businesses.
- Receive waste from our schools, the housing authority and other City operations at no cost to the taxpayer.
- Contribute approximately \$750,000 per year to the general fund and generate additional income to support recycling options and programs.

Close the landfill which will cause:

- A decrease in traffic, odor and dust for landfill neighbors.
- Although multiple state and independent studies have shown there is no new environmental risk, allay the concerns of some citizens about possible risks.
- A reduction in environmental risk associated with a large new public works project.
- (Although multiple state and independent studies have shown there is no health risk) end the concern of some citizens about possible health risks associated with living near an active landfill, and
- Shift responsibility for our waste stream to another community.
- Any other argument against the landfill expansion suggested by a Council member.

Now comes a majority of the City Council and asks: "Do you favor expanding the Glendale Road landfill?"

Recommended deletions from Joint committee
Recommended additions from Joint Committee

Whereas:

The Northampton landfill on Glendale Rd. will reach capacity in 2011 and be closed. The Department of Environmental Protection has granted The City of Northampton a waiver from to expand the landfill.

And Whereas, the City has two distinct options:

Expand the landfill which will:

- Allow the City to take responsibility for its own waste stream.
- Provide the lowest disposal cost for households and businesses.
- Receive waste from our schools, the housing authority and other City operations at no cost to the taxpayer.
- Contribute approximately \$750,000 per year to the general fund and generate additional income to support recycling options and programs.

Close the landfill, which will cause:

- A decrease in traffic, odor and dust for landfill neighbors.
- Allay the concerns of some citizens about possible risks (although multiple state and independent studies have shown there is no new environmental risk).
- A reduction in financial risk associated with any large public works project.
- End the concern of some citizens about possible health risks associated with living near an active landfill (Although multiple state and independent studies have shown there is no health risk).
- Shift responsibility for our waste stream to another community.
- Any other argument against the landfill expansion suggested by a Council member.

Now comes a majority of the City Council and asks: "Do you favor expanding the Glendale Road landfill?"